

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
)	
Federal-State Joint Board on)	
Universal Service)	CC Docket No. 96-45
)	
Petition by East Kentucky Network,)	
LLC d/b/a Appalachian Wireless)	
For Commission Agreement in)	
Redefining the Service Areas of Rural)	
Telephone Companies in the)	
Commonwealth of Kentucky Pursuant)	
To 47 C.F.R. Section 54.207(c))	

**PETITION FOR COMMISSION AGREEMENT IN REDEFINING THE
SERVICE AREAS OF RURAL TELEPHONE COMPANIES IN KENTUCKY**

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Summary

East Kentucky Network, LLC d/b/a Appalachian Wireless (“AW”) requests the Commission’s concurrence with the proposal by the Kentucky Public Service Commission (“KPSC”) to redefine the service areas of Leslie County Telephone Company, Inc., Mountain Telephone Cooperative, Inc., and Kentucky ALLTEL, Inc. - London, pursuant to the process set forth in Section 54.207(c) of the Commission’s rules.

AW provides digital cellular service in rural areas of Kentucky and was recently designated as an eligible telecommunications carrier (“ETC”) pursuant to Section 214(e) of the Act. By granting ETC status to AW, the KPSC found that the use of federal high-cost support to develop its competitive operations would serve the public interest. Because AW’s FCC-licensed service territory does not correlate with rural incumbent local exchange carrier (“ILEC”) service areas, the Act provides that the affected rural ILEC service areas must be redefined before designation in certain areas can take effect. Accordingly, the KPSC has proposed that each partially-covered rural ILEC service area should be redefined in a manner that permits AW’s designation to become effective throughout the portions of the ILEC service area in which it is licensed to provide service. Consistent with the KPSC’s order and with previous actions taken by the FCC and several other states, redefinition is requested such that each wire center of the affected ILECs is reclassified as a separate service area.

The proposed redefinition is warranted under the Commission’s competitively neutral universal service policies, and it constitutes precisely the same relief granted to similarly situated carriers by the Commission and several states. Unless the relevant ILEC service areas are redefined, AW will be unable to use high-cost support to improve and expand service to consumers in many areas of its licensed service territories and consumers will be denied the

benefits. As the Commission and several states have consistently held, competitive and technological neutrality demand the removal of these artificial barriers to competitive entry. Moreover, the requested redefinition satisfies the analysis provided by the Federal-State Joint Board on Universal Service (“Joint Board”) in that it eliminates the payment of uneconomic support or cream-skimming opportunities, duly recognizes the special status of rural carriers under the Act, and does not impose undue administrative burdens on ILECs.

The KPSC’s proposed redefinition is well-supported by the record at the state level, and all affected parties were provided ample opportunity to ensure that the Joint Board’s recommendations were taken into account. Accordingly, AW requests that the Commission grant its concurrence expeditiously and allow the proposed redefinition to become effective without further action.

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**PETITION FOR COMMISSION AGREEMENT IN REDEFINING THE
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East Kentucky Network, LLC d/b/a Appalachian Wireless (“AW”), hereby submit this Petition seeking the FCC’s agreement with the decision of the Kentucky Public Service Commission (“KPSC”) to redefine the service areas of Leslie County Telephone Company, Inc., Mountain Telephone Cooperative, Inc., and Kentucky ALLTEL, Inc. - London (“ILECs”) doing business in Kentucky, so that each of the ILECs’ wire centers constitutes a separate service area.. AW provides digital cellular telephone service to consumers in the Kentucky Rural Service Area (“RSA”) 9 – Elliott, Kentucky, and RSA 10 – Powell, Kentucky. AW was recently granted eligible telecommunications carrier (“ETC”) status by the KPSC pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the “Act”). As set forth below, classifying each

individual wire center of the affected ILECs as a separate service area will foster federal and state goals of encouraging competition in the telecommunications marketplace and extending universal service to rural Kentucky's consumers.

I. BACKGROUND

Pursuant to Section 214(e) of the Communications Act of 1934, as amended (the "Act"), state commissions generally have authority to designate carriers that satisfy the requirements of the federal universal service rules as ETCs and to define their service areas.¹ In rural areas, service areas are generally defined as the ILEC's study area. However, the Act explicitly sets forth a process whereby a competitive ETC may be designated for a service area that differs from that of the ILEC. Specifically, Section 214(e) of the Act provides:

... "service area" means such company's "study area" unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under Section 410(c), establish a different definition of service area for such company.²

The FCC and the Federal-State Joint Board on Universal Service ("Joint Board") have recognized that a strict rule requiring a competitive ETC to serve an area exactly matching a rural LEC's study area would preclude competitive carriers that fully satisfy ETC requirements from bringing the benefits of competition to consumers throughout their service territory.³ Therefore, the FCC established a streamlined procedure for the FCC and states to act together to

¹ 47 U.S.C. § 214(e).

² *Id.*

³ See *Petition for Agreement with Designation of Rural Company Eligible Telecommunications Carrier Service Areas and for Approval of the Use of Disaggregation of Study Areas for the Purpose of Distributing Portable Federal Universal Service Support*, Memorandum Opinion and Order, 15 FCC Rcd 9924, 9927 n. 40 (1999) ("Washington Redefinition Order"), citing *Federal-State Joint Board on Universal Service, Recommended Decision*, 12 FCC Rcd 87, 181 (1996) ("Joint Board Recommended Decision").

redefine rural ILEC service areas.⁴ Using this procedure, the FCC and state commissions have applied the analysis contained in Section 214(e) and concluded that it is necessary and appropriate to redefine the LEC service areas along wire center boundaries to permit the designation of competitive ETCs in those areas.⁵ This process, as well as the underlying necessity of redefinition, was reaffirmed in the FCC's *ETC Report and Order* released March 17, 2005.⁶

AW petitioned the KPSC for ETC status for purposes of receiving high-cost support from the federal universal service fund. For rural ILEC areas which were only partially within the proposed ETC service area, AW requested that the KPSC approve the redefinition of those ILECs' service areas such that each of their wire centers constitutes a separate service area.⁷ An attachment to the Petition listed all of the wire centers in each study area of the relevant ILECs.⁸ As AW's Petition explained, this reclassification of all wire centers throughout each study area as a separate service area would enable AW to be designated in the portion of each study area within its proposed ETC service area.⁹ The KPSC granted AW's petition on August 11, 2005, concluding that a grant of ETC status was in the public interest.¹⁰ The KPSC also granted AW's

⁴ See 47 C.F.R. § 54.207(c). See also *Federal-State Joint Board on Universal Service, Report and Order*, 12 FCC Rcd 8776, 8881 (1997) ("*First Report and Order*").

⁵ See, e.g., *Public Notice, Smith Bagley, Inc. Petitions for Agreement to Redefine the Service Areas of Navajo Communications Company, Citizens Communications Company of the White Mountains, and CenturyTel of the Southwest, Inc. On Tribal Lands Within the State of Arizona*, DA 01-409 (rel. Feb. 15, 2002) (effective date May 16, 2002); *Washington Redefinition Order, supra*, 15 FCC Rcd at 9927-28.

⁶ *Federal-State Joint Board on Universal Service, Report & Order*, 20 FCC Rcd 6371 (2005) ("*ETC Report and Order*").

⁷ Petition at p. 21.

⁸ See Petition at Exhibit D. A copy of this list is attached hereto as Appendix A for the Commission's reference.

⁹ Petition at p. 21.

¹⁰ A copy of the KPSC Order is attached hereto as Appendix B for the Commission's reference.

request for redefinition, conditioning ETC status in rural ILEC areas that are only partially covered by AW's proposed ETC service areas on FCC concurrence with the redefinition of those rural ILEC service areas pursuant to the process established under Section 54.207(c) of the Act. 47 C.F.R. § 54.207(c). The KPSC directed AW to petition the FCC for concurrence with the redefinition of the affected ILEC service areas.¹¹

II. DISCUSSION

The KPSC's proposal to redefine rural ILEC service areas is consistent with FCC rules, the recommendations of the Joint Board, and the competitively neutral universal service policies embedded in the Act. Specifically, redefining the affected rural ILEC service areas so that each wire center is a separate service area will promote competition and the ability of rural consumers to have similar choices among telecommunications services and at rates that are comparable to those available in urban areas.¹² The proceedings at the state level provided all affected parties with an opportunity to comment on the proposed redefinition, and the KPSC fully considered and addressed the parties' arguments on this subject. The record at the state level, including AW's Petition and the KPSC Order, demonstrates that the requested redefinition fully comports with federal requirements and provides the FCC with ample justification to concur.

A. The Requested Redefinition Is Consistent With Federal Universal Service Policy.

Congress, in passing the 1996 amendments to the Act, declared its intent to "promote competition and reduce regulation" and to "encourage the rapid deployment of new telecommunications technologies."¹³ As part of its effort to further these pro-competitive goals,

¹¹ *Id.* at p. 6.

¹² *See* 47 U.S.C. § 254(b)(3).

¹³ Pub. L. No. 104-104, 110 Stat. 56 (1996) (preamble).

Congress enacted new universal service provisions that, for the first time, envision multiple ETCs in the same market.¹⁴ In furtherance of this statutory mandate, the FCC has adopted the principle that universal service mechanisms be administered in a competitively neutral manner, meaning that no particular type of carrier or technology should be unfairly advantaged or disadvantaged.¹⁵

Consistent with this policy, the FCC and many state commissions have affirmed that ETC service areas should be defined in a manner that removes obstacles to competitive entry.¹⁶ In 2002, for example, the FCC granted a petition of the Colorado Public Utilities Commission (“CPUC”) for a service area redefinition identical in all material respects to the redefinition proposed in this Petition.¹⁷ In support of redefining CenturyTel’s service area along wire-center boundaries, the CPUC emphasized that “in CenturyTel’s service area, no company could receive a designation as a competitive ETC unless it is able to provide service in 53 separate, non-contiguous wire centers located across the entirety of Colorado . . . [T]his constitutes a significant barrier to entry.”¹⁸ The FCC agreed and, by declining to open a proceeding, allowed

¹⁴ See 47 U.S.C. § 214(e)(2).

¹⁵ See *First Report and Order*, *supra*, 12 FCC Rcd at 8801. Competitive neutrality is a “fundamental principle” of the FCC’s universal service policies. *Guam Cellular and Paging, Inc., Petition for Waiver of Section 54.314 of the Commission’s Rules and Regulations*, CC Docket No. 96-45, DA 03-1169 at ¶ 7 (Tel. Acc. Pol. Div. rel. April 17, 2003). Moreover, competitive neutrality was not among the issues referred by the FCC to the Joint Board. See *Federal-State Joint Board on Universal Service*, FCC 02-307 (rel. Nov. 7, 2002) (“*Referral Order*”).

¹⁶ See, e.g., *First Report and Order*, *supra*, 12 FCC Rcd at 8880-81; Petition by the Public Utilities Commission of the State of Colorado to Redefine the Service Area of CenturyTel of Eagle, Inc., Pursuant to 47 C.F.R. § 54.207(c) at p. 4 (filed with the FCC Aug. 1, 2002) (“CPUC Petition”).

¹⁷ See CPUC Petition at p. 5 (“Petitioner requests agreement to redefine CenturyTel’s service area to the wire center level”).

¹⁸ CPUC Petition at p. 4.

the requested redefinition to take effect.¹⁹ The FCC similarly approved a petition by the Washington Utilities and Transportation Commission (“WUTC”) and about 20 rural ILECs for the redefinition of the ILECs’ service areas along wire center boundaries, finding that:

[O]ur concurrence with rural LEC petitioners’ request for designation of their individual exchanges as service areas is warranted in order to promote competition. The Washington Commission is particularly concerned that rural areas . . . are not left behind in the move to greater competition. Petitioners also state that designating eligible telecommunications carriers at the exchange level, rather than at the study area level, will promote competitive entry by permitting new entrants to provide service in relatively small areas We conclude that this effort to facilitate local competition justifies our concurrence with the proposed service area redefinition.²⁰

In Washington, several competitive ETCs have been designated in various service areas without any apparent adverse consequences to date. No ILEC in Washington has ever introduced any evidence that they, or consumers, have been harmed by the WUTC’s service area redefinition.²¹

Other state commissions have similarly concluded that redefining rural ILEC service areas along wire center boundaries is fully justified by the pro-competitive goals of the 1996 Act. For example, the Minnesota Public Utilities Commission (“MPUC”) approved the proposal by WWC Holding Co., Inc. d/b/a CellularOne to redefine certain rural ILEC service areas to the wire center level.²² Addressing the concerns expressed by ILEC commenters, the MPUC

¹⁹ CenturyTel has petitioned the FCC to reconsider its decision. However, as of this date CenturyTel’s service area redefinition is effective.

²⁰ *Washington Redefinition Order*, *supra*, 15 FCC Rcd at 9927-28 (footnotes omitted).

²¹ Sprint Corp. d/b/a Sprint PCS et al., Docket No. UT-043120 at p. 11 (Wash. Util. & Transp. Comm’n., Jan. 13, 2005) (stating that the WUTC’s designation of multiple competitive ETCs, “if not benefiting customers (which it does), certainly is not failing customers. In the five years since we first designated an additional ETC in areas served by rural telephone companies, the Commission has received only two customer complaints in which the consumers alleged that a *non*-rural, wireline ETC was not providing service. No Rural ILEC has requested an increase in revenue requirements based on need occasioned by competition from wireless or other ETCs. This record supports our practice of not seeking commitments or adding requirements as part of the ETC designation process.”).

²² WWC Holding Co., Inc. d/b/a CellularOne, MPUC Docket No. P-5695/M-04-226, Order Approving ETC Designation (Minn. PUC, Aug. 19, 2004) (FCC concurrence granted Dec. 28, 2004).

concluded that the proposed redefinition would neither harm the affected rural ILECs nor create significant cream-skimming opportunities.²³ The FCC agreed, and allowed the proposed redefinition to enter into effect. Similar conclusions were reached by state regulators in Arizona, Colorado, New Mexico, Kansas, Maine, Michigan, North Dakota, Oregon, and West Virginia.²⁴

As in those cases, the redefinition requested in the instant proceeding will enable AW to make the network investments necessary to bring competitive service to people throughout its licensed service areas. Redefinition will therefore benefit Kentucky's rural consumers, who will begin to see a variety in pricing packages and service options on par with those available in urban and suburban areas.²⁵ They will see infrastructure investment in areas formerly controlled solely by ILECs, which will bring improved wireless service and important health and safety

²³ *Id.* at p. 9

²⁴ See NPI-Omnipoint Wireless, LLC, Case No. U-13714 (Mich. PSC, Aug. 26, 2003) (FCC concurrence granted Feb. 1, 2005) ("NPI-Omnipoint Order"); Highland Cellular, Inc., Case No. 02-1453-T-PC, Recommended Decision (W.V. PSC Sept. 15, 2003), *aff'd* by Final Order Aug. 27, 2004 (FCC concurrence granted Jan. 24, 2005) ("Highland W.V. Order"); Cellular Mobile Systems of St. Cloud, Docket No. PT6201/M-03-1618 (Minn. PUC, May 16, 2004) (FCC concurrence granted Oct. 7, 2004) ("CMS Minnesota Order"); United States Cellular Corp., Docket 1084 (Oregon PUC, June 24, 2004) (FCC concurrence granted Oct. 11, 2004) ("USCC Oregon Order"); Smith Bagley, Inc., Docket No. T-02556A-99-0207 (Ariz. Corp. Comm'n Dec. 15, 2000) (FCC concurrence granted May 16 and July 1, 2001) ("SBI Arizona Order"); Smith Bagley, Inc., Utility Case No. 3026, Recommended Decision of the Hearing Examiner and Certification of Stipulation (N.M. Pub. Reg. Comm'n Aug. 14, 2001, adopted by Final Order (Feb. 19, 2002) (FCC concurrence granted June 11, 2002) ("SBI N.M. Order"); RCC Minnesota, Inc., Docket No. 04-RCCT-338-ETC (Kansas Corp. Comm'n, Sept. 30, 2004) (FCC concurrence pending) ("RCC Kansas Order"); RCC Minnesota, Inc. et al., Docket No. 2002-344 (Maine PUC May 13, 2003) (FCC concurrence granted March 17, 2005) ("RCC Maine Order"); Northwest Dakota Cellular of North Dakota Limited Partnership d/b/a Verizon Wireless et al., Case No. PU-1226-03-597 et al. (N.D. PSC, Feb. 25, 2004) (FCC concurrence pending) ("Northwest Dakota Order"); In the Matter of the Application of N.E. Colorado Cellular, Inc., to Re-define the Service Area of Eastern Slope Rural Telephone Association, Inc.; Great Plains Communications, Inc.; Plains Cooperative Telephone Association, Inc.; and Sunflower Telephone Co., Inc., Docket No. 02A-444T (ALJ, May 23, 2003), *aff'd* by Colo. PUC Oct. 2, 2003 (FCC concurrence pending) ("Colorado Redefinition Order").

²⁵ See 47 U.S.C. § 254(b)(3)

benefits associated with increased levels of radiofrequency coverage.²⁶ Redefinition will also remove a major obstacle to competition, consistent with federal telecommunications policy.²⁷

B. The Requested Redefinition Satisfies the Three Joint Board Factors Under Section 54.207(c)(1) of the Commission's Rules.

A petition to redefine an ILEC's service area must contain "an analysis that takes into account the recommendations of any Federal-State Joint Board convened to provide recommendations with respect to the definition of a service area served by a rural telephone company."²⁸ In the *Recommended Decision* that laid the foundation for the FCC's *First Report and Order*, the Joint Board enumerated three factors to be considered when reviewing a request to redefine a LEC's service area.²⁹

First, the Joint Board expressed concern as to whether the competitive carrier is attempting to "cream skim" by only proposing to serve the lowest cost exchanges.³⁰ As a wireless carrier, AW is restricted to providing service in those areas where it is licensed by the FCC. AW is not picking and choosing the lowest-cost exchanges; on the contrary, the KPSC designated AW for an ETC service area that is based on the geographic limitations of its licensed service territory,³¹ and the KPSC made the affirmative finding that AW will offer service to

²⁶ See KPSC Order at p. 5.

²⁷ See Joint Explanatory Statement of the Committee of Conference, H.R. Conf. Rep. No. 458, 104th Cong., 2d Sess. at 113 (stating that the 1996 Act was designed to create "a pro-competitive, de-regulatory national policy framework" aimed at fostering rapid deployment of telecommunications services to all Americans "by opening *all telecommunications markets* to competition....")(emphasis added).

²⁸ 47 C.F.R. § 54.207(c)(1).

²⁹ *Joint Board Recommended Decision, supra*.

³⁰ See *Joint Board Recommended Decision*, 12 FCC Rcd at 180.

³¹ See KPSC Order at p. 6.

customers in areas where they may not have access to wireline service.³² AW has not attempted to select areas to enter based on support levels.

Opportunities for receiving uneconomic levels of support are further diminished by the FCC's decision to allow rural ILECs to disaggregate support below the study-area level.³³ By moving support away from low-cost areas and into high-cost areas, ILECs have had the ability to minimize or eliminate cream-skimming and the payment of uneconomic support to competitors.³⁴ Furthermore, any ILECs that failed to disaggregate support effectively may modify their disaggregation filings subject to state approval.³⁵

AW's Petition also makes clear that it meets the FCC's criteria in its analysis of population density as a means of determining the likelihood of AW receiving uneconomic levels of support. Based upon the FCC's assumption in *Virginia Cellular* that "a low population density typically indicates a high-cost area," AW's Petition provided population density figures to demonstrate that no cream skimming will result from designation in the proposed areas.³⁶ As indicated in the table attached as Appendix C, AW is not proposing to serve only, or even primarily, the more densely populated rural ILEC wire centers.

- Leslie County Telephone Company, Inc. The average population density of the wire centers within AW's proposed ETC service area is 29.60 persons per square mile

³² See *id.* at p. 5.

³³ See *Federal-State Joint Board on Universal Service, Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, Fourteenth Report and Order, twenty-second Order on Reconsideration, and Further Notice of Proposed Rulemaking*, 16 FCC Rcd 11244, 11302-09 (2001) ("*Fourteenth Report and Order*")

³⁴ See *ETC Report and Order*, *supra*, 20 FCC Rcd at 6393-94. See also *Federal-State Joint Board on Universal Service, Western Wireless Petition for Designation as an Eligible Telecommunications Carrier for the Pine Ridge Reservation in South Dakota, Memorandum Opinion and Order*, 16 FCC Rcd 18133, 18141 (2001).

³⁵ See 47 C.F.R. §§ 54.315(b)(4); 54.315(c)(5), 54.315(d)(5).

³⁶ *Id.*

(“psm”). The population density for the Leslie County wire centers outside of AW’s proposed ETC service area is 46.81 psm. Therefore, under the applicable FCC analytical framework, there is no risk of cream-skimming in Leslie County’s service area.

- Mountain Telephone Cooperative, Inc. The average population density of the Mountain wire centers AW proposes to cover is 31.28 psm, while the population density of the sole wire center outside of AW’s proposed ETC service area is 30.56. The difference between these two population densities is so small as to be insignificant for purposes of this analysis.³⁷ Accordingly, there is no risk of cream skimming in Mountain’s study area.
- Kentucky ALLTEL, Inc. – London. The average population density of the two Kentucky ALLTEL – London wire centers AW proposes to cover is 99.69 psm, while the average population density of the remaining wire centers in that study area is 43.88. While the average population density is higher inside the proposed ETC service area than outside, the disparity is not nearly as great as the more than eightfold differential that led the FCC to disapprove the designation of Virginia Cellular in a portion of its requested service area (273 psm inside and 33 psm outside).³⁸ Moreover, as shown in Appendix C, the weighted population density of the areas covered by AW’s ETC service area – that is, total population divided by

³⁷ See *Virginia Cellular, LLC*, 19 FCC Rcd 1563, 1579 and n.110 (2004) (“*Virginia Cellular*”) (“The average population density for the MGW wire centers for which Virginia Cellular seeks ETC designation is approximately 2.30 persons per square mile and the average population density for MGW’s remaining wire centers is approximately 2.18 persons per square mile. . . . Although the average population density of the MGW wire centers which Virginia Cellular proposes to serve is slightly higher than the average population density of MGW’s remaining wire centers, the amount of this difference is not significant enough to raise cream skimming concerns.”)

³⁸ *Id.* at 1579-80

total square miles – is 67.79, and the corresponding figure for the excluded areas as 49.32. This is a significantly smaller differential, less than 2:1, and therefore does not create cream-skimming opportunities. Additionally, while there is one relatively high-density wire center in the portion of Kentucky ALLTEL – London’s service area AW proposes to cover, that wire center represents only a small percentage of AW’s potential subscribers within Kentucky ALLTEL – London’s study area. In the *Highland Cellular* order, the FCC declined to designate a competitive ETC in Verizon South’s study area where 94% of Highland’s potential customers resided in the highest-density wire centers.³⁹ Here, by contrast, only 25.9% of AW’s potential customers live in the higher-density wire center within its proposed ETC service area, in contrast to the 94% figure that led to partial denial in the FCC’s *Highland Cellular* order. Accordingly, there is no risk of cream-skimming in Kentucky ALLTEL – London’s service area.

In sum, AW is not proposing to serve “only the low-cost, high revenue customers in a rural telephone company’s study area.”⁴⁰ This fact, in conjunction with the availability of disaggregation to the affected ILECs, demonstrates that cream-skimming will not result from a grant of this Petition.

Second, the Joint Board recommended that the FCC and the States consider the rural carrier’s special status under the 1996 Act.⁴¹ In reviewing AW’s Petition, the KPSC weighed numerous factors in ultimately determining that such designation was in the public interest.

³⁹ See *Highland Cellular, Inc.*, 19 FCC Rcd 6422, 6436-37 (2004) (“*Highland Cellular*”).

⁴⁰ See *id.* at 1578.

⁴¹ See *Joint Board Recommended Decision*, 12 FCC Rcd at 180.

Congress mandated this public-interest analysis in order to protect the special status of rural carriers in the same way it established special considerations for rural carriers with regard to interconnection, unbundling, and resale requirements.⁴² No action in this proceeding will affect or prejudice any future action the KPSC or the FCC may take with respect to any ILEC's status as a rural telephone company, and nothing about service area redefinition will diminish an ILEC's status as such.

Third, the Joint Board recommended that the FCC and the States consider the administrative burden a rural ILEC would face.⁴³ In the instant case, AW's request to redefine the affected rural ILECs' service areas along wire center boundaries is made solely for ETC designation purposes. Defining the service area in this manner will in no way impact the way the affected rural ILECs calculate their costs, but is solely to enable AW to begin receiving high-cost support in those areas in the same manner as the ILECs. Rural ILECs may continue to calculate costs and submit data for purposes of collecting high-cost support in the same manner as they do now.

Should any of the affected rural ILECs choose to disaggregate support out of concerns about cream-skimming by AW or any other carrier, this disaggregation of support will not represent an undue administrative burden. The FCC placed that burden on rural ILECs in its *Fourteenth Report and Order* independent of service area redefinition and made no mention of this process being a factor in service area redefinition requests. To the extent those ILECs may find this process burdensome, the benefit of preventing cream-skimming and the importance of promoting competitive neutrality will outweigh any administrative burden involved.

⁴² See *id*

⁴³ See *id*

In sum, the proposed redefinition fully satisfies both the Joint Board's recommendations and the *Virginia Cellular* analysis.

C. The Proposed Redefinition Along Wire-Center Boundaries Is Consistent With the FCC's "Minimum Geographic Area" Policy.

In its April 2004 *Highland Cellular* decision, the FCC declared that an entire rural ILEC wire center "is an appropriate minimum geographic area for ETC designation".⁴⁴ The FCC reiterated this finding in its *ETC Report and Order* earlier this year.⁴⁵ As set forth in the attached KPSC Order, AW's designated ETC service area does not include any partial rural ILEC wire centers. Accordingly, the instant request for concurrence with redefinition to the wire-center level, and not below the wire center, is consistent with FCC policy.

III. CONCLUSION

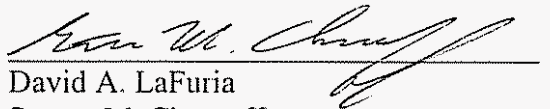
AW stands ready to provide reliable, high-quality telecommunications service to Kentucky's rural consumers by investing federal high-cost support in building, maintaining and upgrading wireless infrastructure throughout their licensed service territories, thereby providing facilities-based competition in many of those areas for the very first time. The KPSC has found that AW's use of high-cost support will increase the availability of additional services and increase investment in rural Kentucky and therefore serve the public interest. Yet, without the FCC's concurrence with the rural ILEC service area redefinition proposed herein, AW will not be able to bring those benefits to consumers in many areas in which they are authorized by the FCC to provide service. The redefinition requested in this Petition will enable AW's ETC designation to take effect throughout its licensed service territory in Kentucky.

⁴⁴ *Highland Cellular*, *supra*, 19 FCC Rcd at 6438

⁴⁵ *See ETC Report and Order*, *supra*, 20 FCC Rcd at 6405.

The relief proposed herein is exactly the same in all material respects as that granted by the FCC and state commissions to numerous other carriers throughout the country, and the FCC is well within its authority to grant its prompt concurrence. AW submits that the benefits of permitting its ETC designation to take effect throughout its proposed service area are substantial, and those benefits will inure to rural consumers who desire AW's service, particularly those consumers who are eligible for Lifeline and Link-Up benefits and currently have no choice of service provider. Accordingly, AW requests that the Commission grant its concurrence with the KPSC's decision to redefine the rural ILEC service areas so that each of the wire centers listed in Appendix A hereto constitutes a separate service area.

Respectfully submitted,


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